

**Qualifying for Disability Benefits:  
Everything you need to know  
for a successful claim**

Scleroderma Foundation/Southern California Chapter  
Education Day – Fall, 2007

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**1. About Social Security and SSI disability benefits**

Contact Social Security on line ([www.ssa.gov](http://www.ssa.gov)); by phone (1-800-772-1213) or at a local Social Security office

- What benefits are available? Title II (disability insurance - DIB) and SSI
- Who may be eligible?
  - wage earners - Title II and SSI
  - non-wage earners - SSI
  - widow(er)s, surviving divorced spouses - Title II
  - children - SSI only

**How does Social Security determine eligibility for these benefits?**

**First, the person must be financially eligible.**

For DIB benefits, this means that you have paid enough into the Social Security system and have worked recently enough. If you stopped working many years ago and only recently became disabled, you may not be “insured” and therefore not be financially eligible for DIB benefits.

For SSI benefits, this means that you must be indigent, meaning have little or no income and less than \$2,000.00 in cash or cash equivalent resources.

**Second, the person must meet the disability definition.**

**The disability definition.**

To meet the disability definition, the applicant must have one or more medical impairments that have lasted or are expected to last at least 12 consecutive months or result in death. If this is established, then a 5 Step sequential evaluation process is applied as follows:

1. Is the person currently working [earning more than \$900.00 gross per month\*]?
2. Does the person have a "severe" impairment?
3. Does a medical condition meet or equal one of the "listings" of impairments? If so, person is presumptively disabled.
4. Can the person still perform their past work?  
If so, they are not eligible.
5. Is there any other type of work the person can perform on a sustained competitive basis?  
If so, they may not be eligible, depending on age and past work experience.

\* This is the figure for 2007. It rises annually.

**BOTH REQUIREMENT MUST BE MET – FINANCIAL AND DISABILITY**

**2. Steps in the decision making process**

Application filed with Social Security

State agency (initial) determination

This usually takes 3 to 6 months and may involve a state agency medical exam or testing

- 60 days to appeal unfavorable decision for reconsideration or an administrative hearing

State agency reconsideration

the second level of review in most states

- 60 days to appeal unfavorable decision for an administrative hearing

SSA Office of Disability Adjudication and Review

Administrative hearing - wait can be 12 months or more

Appeals Council review - if denied at hearing level

Federal Court review - if denied by Appeals Council

### 3. What factors influence a favorable result?

- claimant's age, education and past work experience
- nature of the medical impairments
- consistent reporting of symptoms and treatment
- accurate description of symptoms and findings in medical records  
“*treatment records, treatment records, treatment records*”
- submission of all medical records to Social Security
- submission of doctor's opinion concerning severity of impairment(s) on ability to work
- hearing testimony and how it is received by the administrative law judge

#### THINGS FOR APPLICANTS TO REMEMBER

- Apply early - can apply over the phone on the Internet ([www.ssa.gov](http://www.ssa.gov)) or in person at a local Social Security office.
- Include **all** of your medical conditions in the application. If you have mental symptoms such as depression or anxiety, be sure to include them and obtain treatment for those symptoms.
- Provide complete information on the SSA forms
- Your primary doctor and/or specialist must support your claim
- If denied, continue with appeals - don't give up
- Continue in treatment and report all symptoms
- The process can take a year or more
- Keep your own copies of all forms and medical records
- Keep a record (diary) of symptoms and treatment
- Engage an attorney to improve chances for success

#### THINGS FOR YOUR DOCTORS TO REMEMBER

- Doctors need to provide an accurate description of symptoms and findings in the medical records. This includes clinical and objective findings (restricted range of motion, spasms, swelling, discoloration, temperature, etc.) as well as subjective symptoms (pain, fatigue, depression).
- Doctors should indicate in the treatment records that they believe the symptoms reported and why (i.e. consistent with diagnosis and known symptoms of the disorder).
- The treatment records must be legible (typed is preferred).
- Provide a diagnosis.
- Obtain objective testing as appropriate.
- Refer to specialists as appropriate (i.e. mental health).

- Include in the treatment notes information about the patient's daily activities (i.e. can't cook, can't drive, naps) and limitations in ability to perform daily activities (i.e. how many days a month are daily activities curtailed or impossible to perform?).

#### **4. The role of an attorney**

- a. gather medical records - obtain assessment forms
- b. seek an early favorable decision in appropriate cases
- c. prepare client for the administrative hearing (how the hearing is conducted - what to expect)
- d. present case - apply law - examine SSA vocational and medical experts
- e. write legal briefs for the judge as required
- f. appeals beyond the administrative hearing

#### **5. Attorneys are only paid if benefits are awarded**

- a. Social Security must approve all attorney fees
- b. Fees are normally limited to 25% of retroactive (back) benefits or \$5,300.00\*, whichever is less unless there is an unfavorable decision at the hearing level. \* Figure as of August, 2007

#### **6. Resources on the Internet**

- a. **[www.disability-benefits-law-center.com](http://www.disability-benefits-law-center.com)** - Home page for the Disability Benefits Law Center
- b. **[www.ssa.gov](http://www.ssa.gov)** - Social Security's web site

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### **HOW TO APPLY FOR SOCIAL SECURITY AND SSI DISABILITY BENEFITS**

There are three methods to apply for these benefits (but to apply for SSI benefits you must visit a local office):

1. In person at a local Social Security office. To find the location nearest you, call Social Security's toll free number (1-800-772-1213) or visit their website: [www.ssa.gov](http://www.ssa.gov)
2. By telephone. The toll free number is answered from 7 a.m. to 7 p.m. That number is 1-800-772-1213. When applying by phone you will be sent forms in the mail and given a phone appointment to go over the forms with a claims representative. You complete the forms at home and then mail them back to your local Social Security office.
3. On the Internet. A Social Security disability application can now be completed online. The forms and instructions are found at: [www.ssa.gov/applyfordisability](http://www.ssa.gov/applyfordisability). There are two forms to complete online: 1) the Application (shorter); and 2) the Adult Disability Report (considerably longer). You may complete the forms during more than one session online. When you stop work on either form for the first time, you will be given an eight digit reentry number (password) to permit you to return to the forms as often as necessary to complete them. You must also print out medical authorizations forms and sign them. If you are applying for SSI, you must complete the application process at your local Social Security office. That said, for many individuals the simplest and easiest method to apply is via the Internet.

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### **WHAT YOU WILL NEED TO APPLY FOR SOCIAL SECURITY DISABILITY BENEFITS**

Information about what is needed to complete the disability application is available at Social Security offices and at their website: [www.ssa.gov](http://www.ssa.gov).

Included with these materials are three documents that make up the Adult Disability Starter Kit:

1. Brochure - “What You Should Know Before You Apply for Social Security Disability Benefits.” This brochure answers frequently asked questions.
2. Checklist - Adult Disability Interview. As the form explains, you do not need all of the documents on the checklist to begin the process. If you think you will need to apply for benefits in the near future, you can begin to gather the documents ahead of time.
3. Medical and Job Worksheet - Adult. Use this form to begin to gather the necessary information for the Adult Disability Report.

Forms that constitute the disability application include the following:

1. Application
2. Adult Disability Report – Form SSA-3368
3. Medical Authorization forms – Form SSA-827

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### **HOW THE ADJUDICATION PROCESS WORKS IN CLAIMS FOR SOCIAL SECURITY AND SSI DISABILITY BENEFITS**

Social Security's disability adjudication process varies depending on where the applicant is living. There are currently three different adjudication procedures. Processing times vary widely. The waiting time for decisions at the state agency level can vary from as little as 90 days to as long as six months. At the administrative hearing level, delays can vary from 12 months to over two years.

1. Three step process. This is the most common process at the present time. The initial disability decision is delegated by Social Security to a state disability determination service. If an applicant receives a denial letter, they are informed that they have 60 days to request "Reconsideration." Reconsideration is a second review of the claim by the same state agency. The applicant may submit additional evidence before this second decision is made. If the reconsideration review is also a denial, the applicant will be informed that they have 60 days to request an administrative hearing - the third step.

2. The two step process. Since October 1999 this model has been used by Social Security as an experiment in ten states. The ten states are: Alabama, Alaska, California (Los Angeles North and West areas), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York (Brooklyn and Albany areas), and Pennsylvania. This process eliminates the "Reconsideration" step. This allows the claimant to request an administrative hearing immediately upon a state agency denial decision.

3. The Disability Service Improvement program (DSI). Social Security is in the process of revising its disability adjudication model. This program may eventually replace both the three step process and the two step process. Implementation of this new model began in Social Security's Region I (including Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire and Maine) in August 2006. The goal is to approve claims faster and more accurately. The emphasis is on a better analysis of the claim at the initial review stages. Since DSI is still in its earliest stages, it is too soon to tell if it will achieve its goals.

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### **IMPORTANT PARTS OF THE DISABILITY APPLICATION FORM SSA-3368 (ADULT DISABILITY REPORT)**

#### **SECTION 2**

##### Describing your medical conditions.

Early in the application you will be asked to list your “illnesses, injuries or conditions.” You will also be asked how those conditions affect your ability to work.

Under Section 2A (or the equivalent section in the online application) you will list all of the medical conditions that are limiting your ability to work. Do not just list “scleroderma” if you are being treated for other related (or unrelated conditions). If you have other medical problems, list them as well. Examples include: mental health conditions (depression, anxiety, bi-polar disorder, post traumatic stress disorder to name the most common); orthopedic conditions (including past surgeries); vision disturbances; neurological conditions such as seizures or headaches; diabetes; heart conditions; bowel or bladder conditions; sleep apnea and memory or cognitive disorders. This list is not meant to be exclusive. The goal is to list all of the medical conditions that impact your ability to work. Try to list them in the order of their impact on your work. Scleroderma should usually be listed first. However, it serves no purpose to list non-disabling conditions.

Under Section 2B (or the equivalent section in the online application) you will list all of the symptoms and functional limitations that are limiting your ability to work. You may run out of room on the paper form. If so, continue the information in the Section 9 Remarks section. Keep in mind that your goal is to provide a clear picture of your medical problems to the adjudicator who will decide your claim. List all of your symptoms and functional limitations, not just the ones that bother you the most. The most significant symptoms to report would include: pain; weakness (describing where); limited use of hands arms or legs (describing why); poor sleep; fatigue (including poor sleep, insomnia and the need to nap during the day); fever; malaise; depression and anxiety.

Functional limitations are important. What problems do you have using your hands? Is your ability to lift and carry affected? Is grip affected? Do you drop things? Can you use a computer for extended periods? Do you have limits standing and walking? Do you need to rest

often? Are you able to complete a full day of activities? Do you spend some days in bed? Do you need help with things you used to do by yourself (dressing, bathing, cooking, laundry, shopping)? How often do you fall asleep during the day, even for a few minutes?

Under Section 2E (or the equivalent section in the online application) you will be asked when you became unable to work due to your medical conditions. Do not use the date that you last worked if you were absent from work for medical reasons for at least a month within the six month period before you finally left. Instead, use the date you last worked on a sustained basis. Example: A person stops work on April 15 due to health problems. They recover and return to work on June 1. They work until September 15 and then have to stop for good. Social Security will consider the work from June 1 to September 15 to be an “unsuccessful work attempt” in most cases. Thus, the “onset date” for disability purposes is April 15 and not September 15. If you use the September 15 date on your application, you may be paid five fewer months of benefits than you are entitled to.

Under Sections 2H and 2J (or the equivalent sections in the online application) you will be asked how your condition affected your ability to work and why you stopped working. Go into detail in those sections. Many individuals work until their medical conditions cause frequent absences or poor performance. If that was true for you, admit it. If you were fired or asked to leave or encouraged to apply for disability by your employer, explain that. How better to convince Social Security you cannot sustain employment than to be asked to leave by your former employer?

### **SECTION 3 – Information about your work**

This section asks for information about your past work. Here are the key tips for this section of the application. Remember and include all of the physical demands of your past work, even if it appears to have been sedentary. For example, if you were a secretary, but had to deliver files to another part of the office or plant, then walking and standing were required of that job. If you had to move files or office equipment, then lifting and carrying were involved. Try to remember the times when your job required you to lift or carry more than 10 or 20 pounds and include that information. You want to accurately describe your job in a way that will also allow the adjudicator to understand why you can no longer perform that job on a sustained basis. For example, if your job required you to work with a computer screen most of the day and you were experiencing double or blurred vision, be sure to mention the computer work and that difficulty. If you had a skilled job (say a teacher for example) and were forgetting information, also mention that.